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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,067	09/12/2005	Michael E Kasten JR.	018778-9026-01	8571
1131 7590 05/08/2008 MICHAEL BEST & FRIEDRICH LLP Two Prudential Plaza 180 North Stetson Avenue, Suite 2000 CHICAGO, IL 60601				
EXAMINER				
PICO, ERIC E				
ART UNIT		PAPER NUMBER		
3654				
MAIL DATE		DELIVERY MODE		
05/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/502,067

Applicant(s)

KASTEN ET AL.

Examiner

ERIC PICO

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim(s) 1, 7, 8, 9, 11-13, 15, 20-22, and 24 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Kang U.S. Patent No. 4785906.
3. **Regarding claim 1**, Tremblay discloses an assembly capable of moving a passenger from a first surface to an adjacent second surface wherein the surfaces are located at different vertical levels, the assembly comprising:
 4. an electrical system, shown in Figure 5;
 5. a platform, referred to as lift surface 30, moveable to transport the passenger between the surfaces, the platform 30 having an inboard end, an outboard end, and two opposing sides, the inboard end closer to the first surface than the outboard end;
 6. an arm, referred to as armature 36, 37, coupled to the platform 30 and to the first surface, the arm 36, 37 moveable to transfer the platform 30 between the surfaces;
 7. a passenger support, referred to as handrail 60, 62, located above the platform 30;

Art Unit: 3654

8. a safety restraint system coupled to the passenger support 60, 62, the safety restraint system comprising:
9. a belt, referred to as flexible strap 68, coupled to the passenger support 62 in a first location;
10. a buckle 64 releasably engagable with the belt 68 and coupled to the passenger support 60 in a second location,
11. a current path having an open state and a closed state defined in part upon the releasable engagement between the buckle 64 and the belt 68, the current path closed upon engagement between the buckle 64 and the belt 68; and
12. a motive source coupled to the electrical system and operable to move the arm 36, 37, the motive source incapable of initiating movement of the arm 36, 37 when the current path is open and capable of initiating movement when the current path is closed.
13. Tremblay is silent concerning the motive source capable of continuing movement of the arm regardless of the current path state within the buckle once movement is initiated.
14. Kang teaches a motive source capable of continuing movement of a vehicle regardless of the current path state within a buckle 1 once movement is initiated, Column 2, Lines 55-57.
15. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the motive source disclosed by Tremblay capable of continuing movement of the arm regardless of the current path state within the buckle once movement is initiated as taught by Kang to facilitate safety of the passenger lift.

16. **Regarding claim 7 and 20**, Tremblay discloses a hydraulic pump 93 in fluid communication with a hydraulic cylinder 24 coupled to the arm.
17. **Regarding claim 8, 12 and 21**, Tremblay is silent concerning the safety restraint system further comprises a current flow control device coupled to the current path, the current flow control device comprising a silicon controlled rectifier diode that controls current flow to the motive source of the electrically operated lift system.
18. A current flow control device comprising a silicon controlled rectifier diode commonly known as an SCR is notoriously old and well known in the art of electrical circuits to control current flow, referred to in U.S. Patents 3244965, 3275909, 3302031, 3437911, and 3463970.
19. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a current flow control device comprising a silicon controlled rectifier diode to the current path disclosed by Tremblay to control current flow to the motive source.
20. **Regarding claim 9**, Tremblay discloses the safety restraint system further comprises a lock, referred to as tab 70, electrically coupled to the electrical system, shown in Figure 5 as normally open switch 98, the lock preventing disengagement between the belt 68 and the buckle 64, from the mechanical connection between the tab 70 and buckle 64, in response to a signal from the electrical system, passing through normally open switch 98, during movement of the platform 30.
21. **Regarding claim 13 and 22**, Tremblay discloses the safety restraint system further comprises a lock, referred to as tab 70, coupled to the buckle 64, the lock

Art Unit: 3654

preventing releasable disengagement of the belt 68 from the buckle 64 during movement of the lift system and platform, due to the connection between tab 70 and buckle 64, and allowing releasable disengagement of the belt from the buckle when the lift system is at rest.

22. **Regarding claim 11**, Tremblay discloses a safety restraint system usable with an electrically operated lift system, the safety restraint system comprising:

23. a belt 68; and

24. a buckle 74 releasably engagable with the belt 68 and having a current path defined within the buckle 74 and coupled to the electrically operated lift system, the current path having an open state and a closed state defined in part upon the releasable engagement between the buckle 74 and the belt 68, the current path closed upon engagement between the buckle 74 and the belt 68, the electrically operated lift system incapable of initiating movement when the current path is open and capable of initiating movement when the current path is closed.

25. Tremblay is silent concerning the electrically operated lift system capable of continuing movement regardless of the current path state within the buckle once movement is initiated.

26. Kang teaches an electrically operated system capable of continuing movement of regardless of the current path state within a buckle 1 once movement is initiated, Column 2, Lines 55-57.

27. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the electrically operated lift system disclosed by Tremblay capable of

Art Unit: 3654

continuing movement regardless of the current path state within the buckle once movement is initiated as taught by Kang to facilitate safety of the passenger lift.

28. **Regarding claim 15**, Tremblay discloses a lift mountable onto a vehicle for transporting a passenger between the floor of the vehicle and the street, the lift comprising:

29. a platform 30 coupled to the vehicle and moveable between the floor and the street, the platform 30 having an inboard and an outboard end, the inboard end closer to the floor than the outboard end;

30. a linkage defined in part by two arms 38, 40 pivotally coupled between the platform 30 and the floor;

31. an electrically operated drive system, shown in Figure 5, coupled to the linkage and actuatable to move the linkage;

32. a pair of handrails 60, 62 coupled to the platform 30;

33. a buckle 64 coupled to one of the pair of handrails 60;

34. a belt 68 coupled to the other of the pair of handrails 62 and removeably engaged with the buckle 64, the buckle 64 and the belt 68 having an engaged state and a disengaged state; and

35. a user manipulable switch 72a, 72b coupled to the electrically operated drive system, the switch having an open condition and a closed condition, the drive system incapable of initiating actuation when the switch is in the closed condition and the buckle 64 and belt 68 are in the disengaged state, and the drive system capable of

Art Unit: 3654

initiating actuation when the switch is in the closed condition and the buckle 64 and belt 68 are in the engaged state.

36. Tremblay is silent concerning the drive system capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state.

37. Kang teaches a drive system capable of continuing actuation once begun when the switch is in the closed condition and the buckle 1 and belt 15 are in the disengaged state, Column 2, Lines 55-57.

38. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the drive system disclosed by Tremblay capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state as taught by Kang to facilitate safety of the passenger lift.

39. **Regarding claim 24**, Tremblay discloses a method of moving a passenger between the ground and a vehicle, the method comprising:

40. moving the passenger onto a platform 30 coupled to the vehicle;

41. buckling a seatbelt 68 about the passenger;

42. actuating a switch 72a, 72b to operate an electrical motive source coupled to the platform 30, the motive source inoperable to move the platform 30 from an at rest position without the seatbelt 68 fastened and operable to move the platform 30 from an at rest position with the seatbelt 68 fastened;

43. powering the motive source;

Art Unit: 3654

44. lifting the platform 30 and the passenger between the ground and the vehicle; and moving the passenger off the platform 30.

45. Tremblay is silent concerning the motive source capable of being continually operable as the platform is moving regardless of the seatbelt being fastened.

46. Kang teaches a motive source capable of being continually operable regardless of the seatbelt 15 being fastened, Column 2, Lines 55-57.

47. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the drive system disclosed by Tremblay capable of continuing actuation once begun when the switch is in the closed condition and the buckle and belt are in the disengaged state as taught by Kang to facilitate safety of the passenger lift.

48. Claims 2, 3, 5, 6, 16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Kang U.S. Patent No. 4785906 as applied to claim 1 and 15 above, and further in view of Goodrich U.S. Patent No. 5261779.

49. **Regarding claim 2**, Tremblay discloses the platform comprises side barriers, referred to as opposing sides 34, located near the opposing sides.

50. Tremblay is silent concerning a roll stop located near the outboard end.

51. Goodrich teaches a platform 113 comprising side barriers, shown in Figure 3, located near an opposing sides and a roll stop 112 located near an outboard end.

52. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by Tremblay with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

53. **Regarding claim 3**, Tremblay is silent concerning a roll stop biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end.

54. Goodrich teaches the roll stop 112 is biased between two positions, the first position allowing items to be rolled on or off an outboard end and the second position preventing items from rolling on or off the outboard end, Column 10, Lines 29-31.

55. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by Tremblay with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

56. **Regarding claim 5 and 18**, Tremblay is silent concerning an articulated lever assembly coupled to the platform, the lever assembly capable of moving the platform from a substantially horizontal position to a substantially vertical position.

57. Goodrich teaches an articulated lever assembly 129 coupled to the platform 113, the lever assembly 129 capable of moving the platform 113 from a substantially horizontal position to a substantially vertical position, shown in Figure 6C.

58. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple an articulated lever assembly as taught by Goodrich to the platform disclosed by Tremblay capable of moving the platform from a substantially horizontal position to a substantially vertical position to provide a storage position for the platform.

59. **Regarding claim 6 and 19**, Tremblay is silent concerning a pressure switch coupled to the platform, the pressure switch prevents the platform from moving to the vertical position when the passenger is on the platform.

Art Unit: 3654

60. Goodrich teaches a pressure switch, referred to as a load sensing "disable" switch Column 12, Line 65, coupled to the platform 113 via articulated lever assembly, the pressure switch prevents the platform from moving to the vertical position when the passenger is on the platform, Column 12, Lines 65-68.

61. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple a pressure switch as taught by Goodrich to the platform disclosed by Tremblay to prevent the platform from moving to the vertical position when the passenger is on the platform.

62. **Regarding claim 16**, Tremblay is silent concerning a roll stop located near the outboard end, the roll stop is biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end.

63. Goodrich teaches a roll stop 112 located near an outboard end, the roll stop 112 is biased between two positions, the first position allowing items to be rolled on or off the outboard end and the second position preventing items from rolling on or off the outboard end, Column 10, Lines 29-31

64. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the platform disclosed by Tremblay with a roll stop as taught by Goodrich to prevent a wheelchair from rolling off the platform.

65. Claim 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Kang U.S. Patent No. 4785906 as applied to claim 1 and 15 above, and further in view of Dupuy et al. U.S. Patent No. 6238169.

66. **Regarding claim 4 and 17**, Tremblay is silent concerning a bridge plate pivotally coupled to the inboard end of the platform and positionable to bridge a gap between the platform and the first surface.

67. Dupuy et al. teaches a bridge plate, referred to as barrier 72 pivotally coupled to the inboard end of the platform 17 and positionable to bridge a gap between the platform 17 and the first surface, referred to as vehicle floor F.

68. It would have been obvious to one of ordinary skill in the art at the time of the invention to pivotally couple a bridge plate as taught by Dupuy et al. to the inboard end of the platform disclosed by Tremblay to bridge a gap between the platform and the first surface.

69. **Claims 10, 14, and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay U.S. Patent No. 5373915 in view of Kang U.S. Patent No. 4785906 as applied to claim 1, 11, and 15 above, and further in view of Budd et al. U.S. Patent No. 6077025.

70. **Regarding claim 10, 14, and 23**, Tremblay is silent concerning an alarm coupled to the safety restraint system, the alarm operable to indicate disengagement between the buckle and the belt.

71. Budd et al. teaches an alarm coupled to a safety restraint system, Column 6, Lines 50-53.

72. It would have been obvious to one of ordinary skill in the art at the time of the invention to couple an alarm as taught by Budd et al. to the safety restraint system disclosed by Tremblay to indicate disengagement between the buckle and the belt.

Response to Arguments

73. Applicant's arguments filed 01/30/2008 have been fully considered but they are not persuasive.

74. In response to applicant's argument that it is improper to combine Tremblay U.S. Patent No. 5373915 in view of Kang U.S. Patent No. 4785906 because Tremblay teaches away from Kang. The argument that Tremblay teaches away from Kang relies upon the assertion that because Tremblay discusses the "the electrical interlock of the restraint belt prevents all movement of the lift", Tremblay teaches away from Kang. This argument is without merit because, while the preferred embodiment of Tremblay does show a electrical interlock of the restraint belt prevents all movement of the lift, a statement indicating the desirability of having a system that would allow continued operation of the lift in no way criticizes, discredits, or otherwise discourages the solution claimed. Tremblay, therefore, in no way teaches away from Kang.

75. In response to applicant's argument, "the teachings of Tremblay clearly outweigh the teachings of Kang" and "the teachings of Tremblay, because they relate specifically to passenger lifts, would carry substantially more suggestive power to one of ordinary skill in the art of passenger lifts than the teachings of Kang" The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Firstly, it should be noted that there

is no requirement that an express, written suggestion to combine must appear in prior art references before a finding of obviousness. In addition to the teachings of the references themselves, the suggestion to combine references may be found in the nature of the problem to be solved or the knowledge of persons of ordinary skill in the art. Furthermore, while there must be a motivation to make the claimed invention, there is no requirement that the prior art provide the same reason as the applicant to make the claimed invention. In this case, the suggestion to combine Tremblay in view of Kang comes from the nature of the problem to allow the vehicle to be driven and stopped after the belt is unbuckled as taught by Kang.

76. In response to applicant's argument, "tab 70 of Tremblay is not electrically coupled to the electrical system" the tab 70 of Tremblay is electrically coupled to the electrical system shown in Figure 5 as normally open switch 98.

77. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the lock only allows releasable disengagement of the belt from the buckle when the lift system is at rest) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

78. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

79. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC PICO whose telephone number is (571)272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3654

EEP

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654